

**REMARKS**

This Amendment and Response amends claims 58, 61, 62, 67, and 68. Claims 58, 60-72, and 75-77 are now pending in the application. No fees are believed due for these amendments; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855. Assignee respectfully requests that the Examiner consider the proposed Amendment and remarks below.

**Claim Amendments**

Independent claims 58 and 62 have been amended to address the Examiner's rejections of claims 58, 60-66, 70, 71, 76, and 77 under 35 U.S.C. § 112, second paragraph. In view of these amendments, Assignee respectfully requests that the Examiner withdraw this rejection.

Additionally, independent claims 58, 62, 67, and 68 have been amended to more particularly recite the trajectory of the separating means (claims 58 and 62) and the free end of the elongated element (claims 67 and 68) within the carcass of the bird. Support for this amendment is found in the specification, for example beginning at page 15, line 16, and the drawings, for example in Figs. 3 and 3a. Assignee submits that none of the cited references, U.S. Patent No. 4,418,445 to *Meyn et al.* ("*Meyn '445*"), U.S. Patent No. 5,279,517 to *Koops* ("*Koops*"), and U.S. Patent No. 5,186,679 to *Meyn et al.* ("*Meyn '679*"), teach or suggest, alone or in combination, moving a separating means (or a separating means adapted to move) in a plane that is substantially perpendicular to the breastbone of the bird. Likewise, none of these three references discloses or suggests moving a free end of an elongated element in a

plane that is substantially perpendicular to the breastbone of the bird or a moving means adapted to move the elongated element in such a manner. Accordingly, claims 58, 62, 67, and 68 should be allowed.

**Cited References**

**Meyn '445**

*Meyn '445* describes movements of members inside the carcass of a bird, but *Meyn '445* does not teach or suggest the methods and devices recited in claims 58, 62, 67, and 68. Claims 58 and 62, as well as claims 67 and 68, recite a very specific trajectory of moving a member inside the carcass of a bird, with a very specific result. This trajectory is that the separating means is moved in a plane that is substantially perpendicular to the breastbone of the bird. This trajectory is not taught by *Meyn '445*, where instead a stretching member 21 moves in the exact opposite manner to that recited in claims 58, 62, 67, and 68. Enlargement 24 is inserted into the vent of the carcass and the entire stretching member 21 is then swung outwardly and upwardly in a substantially vertical plane. *See, e.g.*, col. 1, line 61 – col. 2, line 2. The trajectory of movement of the stretching member and enlargement disclosed by *Meyn '445* is clearly not in a plane that is substantially perpendicular to the breastbone of the bird.

For at least this reason, the Examiner should withdraw the rejections of claims 58, 62, 67, and 68 based on *Meyn '445*. Likewise, the Examiner should withdraw the rejections of claims 60, 61, 63-66, 69-72, 76, and 77, which depend from and thereby include the limitations of one of claims 58, 62, 67, and 68, for at least such dependencies.

Koops

It is well known that the breastbone and spine of the bird are in substantially parallel planes. *Koops* describes an eviscerating means 6 that is moved in a plane substantially parallel to the breastbone of the bird, which is in the horizontal plane in the method and device taught by *Koops*. See, e.g., col. 1, lines 29-37; col. 4, lines 1-10; Figs. 1 and 2. Once again, the trajectory recited in independent claims 58, 62, 67, and 68 is a plane substantially perpendicular to the breastbone of the bird. Thus, *Koops* fails to teach or suggest this limitation of claims 58, 62, 67, and 68.

For at least this reason, the Examiner should withdraw the rejections of claims 58, 62, 67, and 68 based on *Koops*. Likewise, the Examiner should withdraw the rejections of claims 60, 61, 63-66, 69-72, 76, and 77, which depend from and thereby include the limitations of one of claims 58, 62, 67, and 68, for at least such dependencies.

Meyn '679

The Examiner only recites *Meyn '679* in the rejection of independent claims 67 and 68, not independent claims 58 and 62. However, Assignee submits that *Meyn '679* does not teach or suggest moving the free end of the elongated element away from the stop face in a plane that is substantially perpendicular to the breastbone of the bird, as recited in claims 67 and 68.

The Examiner states that eviscerating means 15 of *Meyn '679* includes rods 20 and 21, which correspond to the claimed elongated element. Rods 20 and 21 have C-shaped braces 28 and 29, which correspond to the claimed free end of the elongated element

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according to the Examiner. Finally, hinge lip 30, which interconnects braces 28 and 29, corresponds to the claimed stop face according to the Examiner.

Upon reviewing the structure and function of the device disclosed in *Meyn* '679, it is clear braces 28 and 29 cannot move away from hinge lip 30 because they are both connected to and rotate about hinge lip 30. In reviewing Figs. 1b and 3b, it can be seen that although ends 28 and 29 spread apart from one another, they both rotate about hinge lip 30 rather than moving away from hinge lip 30 as would be required to teach the subject matter recited in claims 67 and 68. As currently stated, the Examiner's position is akin to suggesting that a doorknob "moves away" from the hinge to which the door is mounted when the door is opened or closed. This simply cannot be the case, since the doorknob, like the outside ends of braces 28 and 29, will always maintain a fixed position relative to the hinge, like hinge lip 30, and never move closer to or further away from the hinge. Thus, braces 28 and 29 do not move away from hinge lip 30 as would be required for *Meyn* '679 to teach the limitation recited in claims 67 and 68 that the free end of the elongated element moves away from the stop face in a plane that is substantially perpendicular to the breastbone of the bird.

For at least the above reason, the Examiner should withdraw the rejections of claims 67 and 68 based on *Meyn* '679. Inasmuch as dependent claims 69, 72, and 75 depend from and thereby include the limitations of one of claim 67 or claim 68, the Examiner should also withdraw the rejections of claims 69, 72, and 75, for at least such dependencies.

**CONCLUSION**

The foregoing is submitted as a full and complete response to the Final Office Action mailed March 16, 2004. Assignee submits that claims 58, 60-72, and 75-77 are allowable for at least the reasons set forth above, and allowance of these claims is respectfully requested. If the Examiner believes there are any issues that can be resolved via a telephone conference, or there are any informalities that can be corrected by an Examiner's amendment, please call Geoffrey Gavin at (404) 815-6046.

Respectfully submitted,



Geoffrey K. Gavin  
Registration No. 47,591

OF COUNSEL:  
KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
Atlanta, GA 30309-4530  
404.815.6046